

REMARKS

Claims 1, 3, 6-11, and 18-22 are pending. Applicant has cancelled claim 2, without prejudice. Claims 1, 3, 6 and 18 are currently amended. New claims 48 and 49 have been added. Applicant expressly reserves the right to pursue the canceled subject matter in a further application that claims priority under 35 U.S.C. § 120 from this application.

Support for the amendments to claims 6 and 18 and new claims 48 and 49 can be found at paragraph 0010 of U.S. 2009/0123463, the publication corresponding to the instant application.

The claim amendments made herein have been made solely to expedite prosecution of the present application and should not be construed as acquiescence to any of the rejections set forth in the Office action. No new matter has been added by these amendments.

Applicants note that as indicated in the Office Action dated December 6, 2010, the rejection of claims 1, 2, 6-11, 18 and 21 under 35 U.S.C. 102(e) in view of Sauk and the rejection of claims 1-3, 6-11 and 18-20 under 35 U.S.C. 103(a) over Sauk in view of Bermudes have been withdrawn.

Applicants thank the Examiner for participating in an Examiner interview on March 31, 2011. During the interview Applicants' representative, Elizabeth Spar, and Examiner Hollaran, discussed whether it was advisable to file a request for continued examination with the current response, in view of the proposed claim amendments. The Examiner suggested that a request for continued examination may not be necessary to obtain entry of the current amendments.

Objections

In response to the Examiner's assertion that claim 3 depends from a cancelled claim, claim 3 has been amended to depend from pending claim 1.

Rejection of claims 6-11 and 18-22 under 35 U.S.C. §112, first paragraph

Claims 6-11 and 18-22 remain rejected under 35 U.S.C. §112, first paragraph.

The Examiner states at page 3 that, "[t]he basis for this rejection is that the disclosure of the specification does not provide adequate support for the genus of agents that specifically bind focal adhesion kinase and induce apoptosis, or for compositions comprising fragments, variants or derivatives of SEQ ID NO: 3."

Applicants respectfully traverse the rejection.

Without acquiescing to the rejection and purely to expedite prosecution Applicants have amended the claims to the following.

Amended claim 1 recites: "An agent that specifically binds focal adhesion kinase and induces apoptosis in a cell that expresses focal adhesion kinase; wherein said agent consists of the amino acid sequence of SEQ ID NO: 3."

Amended claim 6 recites: A composition comprising SEQ ID NO: 3 or a variant thereof, wherein said variant is at least 90% homologous to SEQ ID NO: 3, wherein the composition binds focal adhesion kinase (FAK) and modulates cellular apoptosis, cell motility and cell metastasis.

Amended claim 18 recites: A composition comprising a chimeric molecule consisting of amino acid sequence SEQ ID NO: 3 or a variant thereof, wherein said variant is at least 90% homologous to SEQ ID NO: 3, and a targeting domain.

Support for the limitation of claims 6 and 18, "wherein said variant is at least 90% homologous to SEQ ID NO: 3" is found at paragraph 0010 of U.S. 2009/0123463, the publication corresponding to the instant application.

It is Applicant's position that in view of the replacement of the term "comprising" with the term "consisting of", the rejection is overcome.

Applicants respectfully request reconsideration and withdrawal of the rejection.

Rejection of claims 1, 6, 8-11 and 18 under 35 U.S.C. §102(b)

Claims 1, 6, 8-11 and 18 are rejected under 35 U.S.C. §102(b) in view of Davis-Smyth (U.S. 6,100,071) as evidenced by Garces et al. (Cancer Res. 66(3): 1446-1454).

The Examiner asserts that claims 1, 6 and 18 include the term "comprise". The Examiner notes that SEQ ID NO: 3 is a fragment of the larger protein VEGFR-3 or flt-4. The Examiner states at page 6 that "Davis-Smyth teaches SEQ ID NO: 3, which is the sequence of flt-4 (VEGFR-3) and which comprises the SEQ ID NO: 3 of the instant claims."

Applicants respectfully traverses the rejection.

Claims 1, 6 and 8 have been amended to replace the term "comprising" with the phrase "consisting of."

Applicants assert that Davis-Smyth does not teach "an agent that specifically binds focal adhesion kinase and induces apoptosis in a cell that expresses focal adhesion kinase; wherein said agent consists of the amino acid sequence of SEQ ID NO: 3" as required by amended claim 1.

Applicants also assert that Davis-Smyth does not teach "a composition comprising SEQ ID NO: 3 or a variant thereof, wherein said variant is at least 90% homologous to SEQ ID NO: 3, wherein the composition binds focal adhesion kinase (FAK) and modulates cellular apoptosis, cell motility and cell metastasis" as required by amended claim 6.

Applicants also assert that Davis-Smyth does not teach "a composition comprising a chimeric molecule consisting of amino acid sequence SEQ ID NO: 3 or a variant thereof,

wherein said variant is at least 90% homologous to SEQ ID NO: 3, and a targeting domain" as required by amended claim 18.

New claim 48 recites "A composition consisting of SEQ ID NO: 3, wherein the composition binds focal adhesion kinase (FAK) and modulates cellular apoptosis, cell motility and cell metastasis."

New claim 49 recites "A composition comprising a chimeric molecule consisting of amino acid sequence SEQ ID NO: 3, and a targeting domain."

Applicants assert that Davis-Smyth does not teach "a composition consisting of SEQ ID NO: 3, wherein the composition binds focal adhesion kinase (FAK) and modulates cellular apoptosis, cell motility and cell metastasis" as required by new claim 48.

Applicants also assert that Davis-Smyth does not teach "a composition comprising a chimeric molecule consisting of amino acid sequence SEQ ID NO: 3, and a targeting domain" as required by new claim 49.

Applicants assert that in view of the amendments, the rejection has been overcome and respectfully request reconsideration and withdrawal of the rejection.

Rejection of claims 1, 6, 8-11 and 18-20 under 35 U.S.C. §103(a)

Claims 1, 6, 8-11 and 18-20 are rejected under 35 U.S.C. §103(a) over Davis-Smyth (U.S. 6,100,071) in view of Bermudes (U.S. 6,962,696).

Applicants respectfully traverse the rejection.

As discussed hereinabove in Applicant's response to the rejection of claims 1, 6, 8-11 and 18 in view of Davis-Smyth, Davis-Smyth does not teach or suggest the subject matter of the instant claims.

Applicants assert that Bermudes does not cure this deficiency.

Applicants therefore respectfully request reconsideration and withdrawal of the rejection.

CONCLUSION

In view of the remarks and amendments herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution. The Commission is authorized to charge any fee occasioned by this paper, or credit any overpayment of such fees, to Deposit Account No. 04-1105, under Order No. 69774(49163).

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Respectfully submitted,

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